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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**

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9 Rune Kraft, No. CV-21-00575-PHX-DJH
10 Plaintiff,
11 v.
12 Chevron Corporation, et al.,
13 Defendants.
14

ORDER

15 Pending before the Court is Plaintiff's Response to this Court's Order to Show
16 Cause (Doc. 61). On August 13, 2021, the Court ordered *pro se* Plaintiff to either find a
17 licensed attorney to appear on behalf of the corporate entities he claimed to represent or
18 show cause why any claims related to unrepresented corporate entities should not be
19 dismissed. (Doc. 60). On August 14, 2021, Plaintiff submitted his Response (Doc. 61),
20 and Defendants filed a Joint Reply (Doc. 93).¹

21 **I. Background**

22 Plaintiff's Complaint states that he is bringing this case on behalf of Realia, Inc.
23 ("Realia"), a Delaware corporation; Concreteworks, Inc. ("Concreteworks"), a Delaware

24 ¹ Plaintiff also filed a Sur-Reply (Doc. 94) to Defendant's Reply. Sur-replies are not
25 allowed under the Local Rules unless otherwise ordered by the Court. The Court
26 temporarily stayed this matter on August 13, 2021, and specifically instructed Plaintiff not
27 to make any filings while the matter was stayed, unless otherwise ordered to do so. (Doc
28 60). In the Court's previous Order, it instructed Defendants to file a Reply to Plaintiff's
Response. (Doc. 89). The Court will strike Plaintiff's Sur-Reply (Doc. 94) because it
violates the Court's Order prohibiting filings without prior Court approval. (Doc. 60); *see also* *Millenium 3 Technologies v. ARINC, Inc.*, 2008 WL 4737887, at *2 (D. Ariz. Oct. 29,
2008) (Sur-Replies and Sur-Responses are not authorized by Rule 7, any other Federal
Rule of Civil Procedure, or this District's Local Rules, absent prior leave of court).

1 corporation; Artesia Holdings, Inc. (“Artesia”), a Delaware corporation, Pacific Equipment
 2 Management Company, Inc. (“PEMC”), a Delaware corporation; Pacific Real Estate
 3 Holdings, Inc. (“PREH”), a Delaware corporation; North American Service Holdings, Inc.
 4 (“NASH”), a Delaware corporation; and Kraft Americas Holdings, Inc. (“KAH”)
 5 (collectively “Corporations”). (Doc. 1 at ¶ 2). Plaintiff alleges the Corporations have
 6 assigned their claims to him. (*Id.*) Although Plaintiff is not a licensed attorney, he asserts
 7 claims on the Corporations’ behalf against Defendant Chevron Corporation (“Chevron”)
 8 and over twenty other individuals and corporate defendants.² (*Id.* at ¶¶ 2–18).

9 In his Complaint, Plaintiff alleges Defendants engaged in a cement cartel and anti-
 10 competitive behavior in California. (*Id.* at ¶ 32). He also alleges the Tulare County Court
 11 in California wrongfully ordered Plaintiff to pay \$200,000 and that Chevron and certain
 12 other named Defendants allegedly overcharged for diesel fuel in California. (*Id.* at ¶ 31).
 13 Finally, he asserts Racketeer Influenced and Corrupt Organizations Act (“RICO”) claims
 14 against various defendants. (*Id.* at ¶¶ 65–73). Plaintiff brings these claims on behalf of the
 15 Corporations, not as an individual or in his individual capacity. (*Id.* at ¶ 2).

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18 ² Plaintiff has filed numerous lawsuits, including several in this district and against several
 19 of the Defendants in this litigation. *See e.g.*, *Kraft v. Williams et al.*, 2019 WL 6310253,
 20 at *1 (D. Ariz. Nov. 25, 2019) (dismissed); *Kraft v. Gainey Ranch Community Association*
 21 *et al.*, 2021 WL 535527, at *1 (D. Ariz. Feb. 12, 2021) (dismissed); *Kraft v. Maricopa*
 22 *County, et al.*, 2:20-cv-01491-DLR, Doc. 62 (D. Ariz. May 10, 2021) (dismissed); *Kraft v.*
 23 *Arizona, et al.*, 2021 WL 2646546, at *1 (D. Ariz. June 28, 2021) (dismissed); *Kraft v.*
 24 *CRH PLC et al.*, 2:21-cv-00154-SMB (D. Ariz.); *U.S., et al., ex rel. Kraft v. CalPortland*
 25 *Construction, et al.*, 2:16-cv-04479-JFW-SS, Doc. 99 (C.D. Cal. Mar. 9, 2018)
 26 (dismissed); *Kraft v. Hatch, et al.*, 1:19-cv-00646, Doc. 32 (D.N.M. Mar. 25, 2020)
 27 (dismissed); *Kraft v. Old Castle Precast Inc et al.*, No. 2:15-cv-00701-VBF-AS, Doc. 46
 28 (C.D. Cal. Apr. 18, 2016) (dismissed); and *Kraft v. Oldcastle Precast, Inc. et al.*, 18-cv-
 03036-LB, Doc. 9 (N.D. Cal. Aug. 9, 2018) (transferred).

24 Numerous courts have declared Plaintiff a vexatious litigant. *See e.g.*, *Kraft v. Old Castle*
 25 *Precast, Inc.*, 2016 U.S. Dist. LEXIS 183082 at *47–50 (C.D. Cal. Mar. 24, 2016)
 26 (declaring Plaintiff a vexatious litigant); *CalMat Co. v. Oldcastle Precast, Inc.*, 2017 WL
 27 6001757 (D.N.M. Dec. 4, 2017) and *CalMat Co. v. Oldcastle Precast, Inc.*, 2017 WL
 28 6016465 (D.N.M. Dec. 4, 2017), *on reconsideration in part*, 2018 WL 3031907 (D.N.M.
 June 18, 2018) (ordered Plaintiff to pay monetary sanctions); *Gainey Ranch Community*
Association, et al. v. Kraft, et al., CV 2017-000765, Superior Court of Arizona, Maricopa
 County, Ruling at 2 (Jan. 17, 2018) (declaring Plaintiff a vexatious litigant).

1 **II. Analysis**

2 “It has been the law for the better part of two centuries . . . that a corporation may
 3 appear in the federal courts only through licensed counsel.” *Rowland v. California Men’s*
 4 *Colony, Unit II Men’s Advisory Council*, 506 U.S. 194, 201-02 (1993); *see also, e.g., In re*
 5 *Highley*, 459 F.2d 554, 555 (9th Cir. 1972) (“A corporation can appear in a court
 6 proceeding only through an attorney at law.”); *Russell v. United States*, 308 F.2d 78, 79
 7 (9th Cir. 1962). “[T]he purpose of the rule requiring corporations to appear by an attorney
 8 is to ensure that the court has greater control over the management and administration of
 9 the case.” *Mercu-Ray Industries, Inc.*, 392 F. Supp. 16, 18 (S.D.N.Y. 1974). A plaintiff
 10 who accepts the advantages of incorporation must “bear the burdens of that incorporation;
 11 thus, he must have an attorney present the corporation’s legal claims.” *Id.* at 20.

12 Plaintiff alleges the Corporations “have assigned their claims related to this matter
 13 to Kraft.” (Doc. 1 at 2 ¶ 2). In his Response to the Order to Show Cause, he argues that
 14 as an assignee, he is representing his proprietary interests. (Doc. 61 at 2). His right to
 15 represent these interests, he contends, rests on 28 U.S.C. § 1654 and various case law
 16 precedent. (*Id.*) Plaintiff also argues the sole plaintiff in this action is not a corporation,
 17 but an individual—Rune Kraft—and thus these rules should not apply to him. (*Id.*)

18 Plaintiff is not the first *pro se* plaintiff to have tried such a strategy. District courts,
 19 however, have repeatedly rejected such tactics. “[A] pro se litigant who is not an attorney
 20 cannot assert claims in federal court that an artificial entity, such as a corporation or a
 21 limited liability company, has assigned to her.” *Kumaran v. ADM Inv’r Servs.*, 2020 WL
 22 4926263, at *1 (S.D.N.Y. Aug. 20, 2020) (*citing United States ex rel. Mergent Servs. v.*
 23 *Flaherty*, 540 F.3d 89, 92 (2d Cir. 2008)). *See also Bischoff v. Waldorf*, 660 F. Supp. 2d
 24 815, 816 (E.D. Mich. 2009) (“A corporation’s claims, even when purportedly ‘assigned’
 25 to an individual, must be litigated by a licensed attorney.”). The rule aims to “protect[] the
 26 court and the public from irresponsible behavior by lay advocates who lack many of the
 27 attorney’s ethical and legal responsibilities and who often are incapable of presenting legal
 28 arguments in an articulate, concise manner.” *Bischoff*, 660 F. Supp. 2d at 820 (citation

1 omitted). Here, Plaintiff has continued to ignore this Court's Order (Doc. 60) directing
 2 him not to file any further pleadings until the Order to Show Cause is decided (*see* Docs.
 3 64; 67–69, 73; 82–84; 90–92; 94). He has filed pleadings containing insults and other
 4 personal and unprofessional attacks on this Court (Docs. 84 at 7; 90 at 2). He has failed to
 5 present a compelling legal argument as to why the policy requiring corporations to be
 6 represented by counsel should not apply to him. To the contrary, the Court finds the
 7 policies underlying these rules would be thwarted if Plaintiff is permitted to continue
 8 representing these corporations *pro se*.

9 Nor does the Court find the fact that Plaintiff styled the case in his own name
 10 persuasive; instead, this appears to be a veiled attempt to subvert the policies underlying
 11 these rules. *See e.g.*, *Mercu-Ray Indus., Inc. v. Bristol-Myers Co.*, 392 F. Supp. 16, 18
 12 (S.D.N.Y. 1974) (rejecting plaintiff's attempt to change the title of the action “from *Mercu-*
 13 *Ray Industries, Inc.*, plaintiff, to James Scott Kreager, plaintiff,” to obviate the fact that his
 14 corporation was not represented by counsel).

15 Plaintiff lastly argues that 28 U.S.C. § 1654 supports his right to represent his
 16 proprietary interests. (Doc. 61 at 2). He cites nine Supreme Court decisions to support his
 17 contention. (*Id.*) He argues these cases confirm he “has standing to assert the injuries . . .
 18 suffered by these corporate entities based on the doctrine that the assignee of a claim has
 19 standing to assert the injury in fact suffered by the assignor.” (Doc. 61 at 4). “Parties may
 20 plead and conduct their own cases personally or by counsel as, by the rules of such courts,
 21 respectively, are permitted to manage and conduct causes therein.” 28 U.S.C. § 1654.
 22 Although Section 1654 permits an individual to proceed *pro se* in federal court, the statute
 23 does not permit an individual to appear on behalf of a corporation. Likewise, Section 1654
 24 does not permit Plaintiff to circumvent that rule by taking a purported assignment. *See*
 25 *e.g.*, *United States v. High Country Broad. Co.*, 3 F.3d 1244, 1245 (9th Cir. 1993)³
 26 (affirming district court’s denial of shareholder’s motion to intervene *pro se* “rather than

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 28 ³ *Disapproved of by GlobalTranz Enterprises Inc. v. Shippers Choice Glob. LLC*, 2017 WL
 2841224 (D. Ariz. June 2, 2017). That case, however, considered defendant’s failure to
 comply with the court’s order to retain counsel only insofar as its relevancy to plaintiff’s
 motion for default. Regardless, this court is not bound by another district court opinion.

1 hire corporate counsel" because it "would eviscerate section 1654").

2 Moreover, the express language of Section 1654 permits parties to plead their own
 3 cases only if allowed "by the rules of such courts . . ." 28 U.S.C. § 1654. The District of
 4 Arizona's instructions to *pro se* litigants require corporations to obtain counsel; Plaintiff
 5 has plainly ignored this local rule.⁴ The Supreme Court has addressed this issue and found
 6 "the lower courts have uniformly held that 28 U.S.C. § 1654, providing that 'parties may
 7 plead and conduct their own cases personally or by counsel,' does not allow corporations,
 8 partnerships, or associations to appear in federal court otherwise than through a licensed
 9 attorney." *Rowland*, 506 U.S. at 201–03.

10 Plaintiff cites numerous cases to support his contention about the right of self-
 11 representation. Plaintiff specifically highlights *Faretta v. California*, but that case involved
 12 a criminal defendant's right to represent himself under the Sixth Amendment. 422 U.S.
 13 806, 812–13 (1975). The Court finds it inapposite. The remainder of the cases Plaintiff
 14 cites are equally inapplicable. Plaintiff has therefore failed to show cause as to why his
 15 Complaint should not be dismissed.

16 **IV. Conclusion**

17 The Court will dismiss the Complaint because Plaintiff has failed to obtain counsel
 18 as ordered (Doc. 60) and Plaintiff may not circumvent the longstanding rule requiring
 19 corporations to appear through counsel by a purported assignment of the corporations'
 20 claims.

21 Accordingly,

22 **IT IS HEREBY ORDERED** that Plaintiff's Complaint (Doc. 1) is **DISMISSED**.

23 **IT IS FURTHER ORDERED** that the remaining Motions to Dismiss, Motion for
 24 Judicial Notice, Motion for Specific Relief, and Motions for Adding Parties (Docs. 19, 23,
 25 26, 29, 30, 31, 34, 39, 40, 41, 42, 43, 44) are **DENIED AS MOOT**.

26 **IT IS FURTHER ORDERED** that the Plaintiff's Motion for the Article III Court
 27 to Review the Order Issued by the Article I Court (Doc. 91) is **STRICKEN** and **DENIED**.

28 ⁴ <https://www.azd.uscourts.gov/proceeding-without-attorney> (last visited Nov. 18, 2021).

1 **IT IS FINALLY ORDERED** directing the Clerk of Court to terminate this action.
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4 Dated this 10th day of December, 2021.
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10 Honorable Diane J. Humetewa
11 United States District Judge
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